

TITLE 329 SOLID WASTE MANAGEMENT BOARD

LSA Document #00-185

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On September 17, 2002, the Solid Waste Management Board (board) conducted the first public hearing/board meeting concerning the development of amendments to 329 IAC 10. Comments were made by the following parties:

Jim Meiers, Cinergy Corporation (CC)
Mark E. Shere, Bethlehem Steel Corporation (BSC)
Bill Paraskevas, Indiana Chapter of the National Solid Waste Management Association (NSWMA)

Following is a summary of the comments received and IDEM's responses thereto.

Comment: My comments are really a request for clarification. 329 IAC 10-21-7(f), detection ground water monitoring program, I would like clarification or a reference to which Arsenic MCL is being established there. The Office of Water Quality has adopted ground water quality standards for the state of Indiana. These standards were adopted for use in all of the regulatory programs in Indiana, and I would recommend that we use that—those ground water standards as reference to this Arsenic MCL. (CC)

Response: The agency agrees that there is some confusion on this issue. For the purposes of this rule, the .05 standard is legally what is being referenced. This was the standard established in the standing version of 329 IAC 10. While EPA has changed their MCL standard to .01, they provided a time frame for drinking water suppliers to obtain that standard by 2006. So, there is a phase-in for suppliers to meet that standard for purposes of supplying drinking water to homes. There is a need to have some discussion on whether or not to update this standard in 329 IAC 10 before the 2006 deadline. We would need to specifically reference in this version of the rule that we are adopting the newer version of the federal MCL and the agency is willing to talk with the regulated community regarding phasing-in this standard.

Comment: First, I'd like to emphasize that IDEM has done a really nice job of moving this rule along. IDEM has provided e-mail drafts on this rule in a very timely manner. It has responded to comments made informally, and we've been able to resolve some issues already, and we sure appreciate that.

The Burns Harbor Division supports preliminary adoption, but again, I'd like to identify one issue that I believe needs attention before final adoption, and it's an issue that I expect you'll be seeing again before long. That issue is electronic reporting. The regulated community is eager to see electronic reporting incorporated in the state's environmental rules. The opportunities for providing better information at less cost are obvious, but to do good, electronic reporting does need to mean something more than that companies will keep doing everything they're currently doing, but then duplicate it all in an electronic format.

Unfortunately, the rule as proposed for preliminary adoption really takes this duplication approach. In Section 10-1-4.5, the rule keeps the current requirements for paper copies and then uses electronic filing as merely an extra format, quote, when requested by the commissioner.

Electronic reporting will cut across a lot of programs, and this solid waste disposal rule, a fairly narrow rule, is probably not the best place to try to work through the issues on kind of a cutting edge basis.

The U.S. EPA is currently working on a cross-media electronic reporting and record keeping rule that is due out for comment this April. EPA describes this rule as providing a paperless system and says that the rule is on a fast track at EPA to meet statutory requirements and to respond to initiatives from the EPA administrator.

My suggestion is that IDEM wait for EPA's rule to come out before moving ahead on state electronic reporting rules, especially rules that don't provide much practical benefit at their current stage of development and that will likely have to be redone when EPA issues its rule in any event.

Again, I think this issue can be resolved before final adoption. We do support preliminary adoption, with the expectation that the agency will continue to work on this question. (BSC)

Response: The electronic submittal language that IDEM has proposed will not interfere with or contradict EPA's Cross-Media Electronic Reporting and Recordkeeping Rule (CROMERR). CROMERR in its current form requires the electronic submittal of regulatory reports and digital signatures of the submitters. The receiving organizations, states, and EPA, must have infrastructure and policies in place to receive these electronic submittals and maintain them along with the digital signature. There are several legal and technical difficulties that the agency must resolve in order to be able to accept digital signatures and, therefore, not need duplicative paper submittals. Having reports submitted in electronic, as well as paper form does provide a benefit as the electronic data can be downloaded into data bases, avoiding manual data input. The agency will continue to monitor CROMERR and looks forward to the day when less paper will be needed to satisfy regulatory requirements.

Comment: The Association and its members have been following the development of this rule with some interest, and have met several times with the Office of Land Quality staff on this issue.

We appreciate the staff's willingness to consider our suggestions and our feedback on the rule changes, particularly our request for incorporation of the storm water NPDES rule requirements into the solid waste rules. We think this will help eliminate duplicative processing of permits for landfills, and we hope that the next time that the Solid Waste Processing Rules are opened, that a similar change can be made for transfer stations, also.

In general, the NSWMA supports preliminary adoption of this rule. We do have several major concerns and some disagreements with specifics in the rule, which we'd like to discuss further, but in the interest of brevity today, I'd like to confine my comments to two major issues, one being the storm water rules mentioned.

As noted earlier, the storm water rules are incorporated largely through the impetus of the changes in the water quality rulemaking process, which is still ongoing, and we note that currently, if adopted today, the solid waste rules would actually precede the water rules in adoption, when some of the changes are actually based on those water rules.

We hope that before the solid waste rules are finalized, that the board will wait until the water rules have been finalized so we can be sure that there is consistency with the rule making process between both sets of rules.

With regard to the ground water issue, the other major concern we have is the more recent changes in the incorporation of several parameters from the ground water protection standard rule. This opens up an area for further discussion as to the appropriate listing of parameters in the solid waste rule, and we have not had an opportunity to discuss this with the staff at this point. So, this is an area that we certainly would like to have more input and discussion on. (NSWMA)

Response: IDEM agrees. Staff will be working with all interested parties to discuss these adopted changes and further revisions to the rule, especially the more recent changes to the storm water and ground water sections. We plan on at least one more meeting with the regulated community to resolve these issues, as the agency attempts to eliminate duplicative procedures for MSWLFs, while still providing maximum protection to the environment through the regulations.